



POLICE DEPARTMENT

November 15, 2019

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	
Police Officer Ian Gullo	:	2017-18214
Tax Registry No. 945793	:	
71 Precinct	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Michael Martinez, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

COURTESY • PROFESSIONALISM • RESPECT

Website: <http://nyc.gov/nypd>

CHARGES AND SPECIFICATIONS

1. Said Police Officer Ian Gullo, while assigned to the 71st Precinct, on or about May 5, 2017, wrongfully failed to follow proper Department procedures in reporting sick.
P.G. 205-01, Page 1, Paragraph 1
and Page 2, Paragraphs 4 & 5
Reporting Sick
Personnel Matters
2. Said Police Officer Ian Gullo, while assigned to the 71st Precinct, on or about and between May 5, 2017 and June 22, 2017, having been placed on Restricted Duty and not having been placed on Sick Report, wrongfully failed to report for approximately thirty-one (31) tours of duty.
P.G. 203-05, Page 1, Paragraph 1
Performance on Duty - General
General Regulations

P.G. 205-18
Absent Without Leave
Personnel Matters
3. Said Police Officer Ian Gullo, while assigned to the 71st Precinct, on or about and between May 5, 2017 and June 22, 2017, wrongfully engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Police Officer wrongfully failed to contact the Medical Division to follow-up on his medical or duty status.
P.G. 203-10, Page 1, Paragraph 5
Public Contact - Prohibited Conduct
General Regulations

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 18, 2019. Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having carefully reviewed all of the evidence in this matter, I find that mitigation is warranted on the issue of dismissal probation, and recommend that Respondent forfeit thirty-one (31) vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

This case stems from a misunderstanding that started with Respondent's visit to the Medical Division on May 5, 2017. [REDACTED]

[REDACTED] met with Respondent and informed him that he was being placed on restricted duty. Respondent believed that he was instead being placed on sick report, and did not report for work until the mistake was discovered on June 23, 2017. In order to understand why this error occurred, we must start by considering Respondent's recent history with the Department, beginning in 2016.

Respondent testified that when he was assigned to patrol with the 71 Precinct in June of 2016, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. (Tr. 24-28)

In late October of 2016, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. In late April of

2017, Respondent was cleared for a return to full duty. (Tr. 27-30)

Respondent's first tour back on patrol with the 71 Precinct was on May 2, 2017, and he worked the next two days as well. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Rather than first obtaining a sick control number and calling it in to his command, Respondent drove to the Medical Division that same day. (Tr. 31-34, 45, 51-53)

[REDACTED]

Respondent testified that although he now realizes that [REDACTED] placed him on restricted duty, at the time he believed he was being placed on sick report, since that is how his situation was handled in October of 2016. Respondent also explained that although his [REDACTED]

[REDACTED] by the time he spoke with [REDACTED] he still [REDACTED]

[REDACTED] which may have contributed to his misunderstanding. After his meeting with [REDACTED]

[REDACTED] Respondent surrendered his gun, shield, and identification to Sergeant Meier of the Absence Control Unit and returned home. (Tr. 36-37, 40, 45, 64-66)

Respondent conceded that he did not report to work in the ensuing six weeks, missing approximately 31 tours, nor did he contact the Medical Division to check on his status. He understands now that he should have been more proactive, but explained that he thought the Department was in the process of evaluating his situation. [REDACTED]

[REDACTED] [REDACTED]. Respondent followed the proper sick protocol and called the Medical Division on or about May 10, 2017 in order to get permission to leave his residence and [REDACTED]; no one informed Respondent during that call that he was actually on restricted duty. When Respondent called the Medical Division again on June 23, 2017 to request permission to attend a friend's out-of-state funeral, he was informed that he was on restricted duty and instructed to report at once to the Medical Division for a Department interview, which he did. (Tr. 38-41, 46-48, 53-55)

Once the mistake came to light, Respondent returned to the 71 Precinct on restricted duty.

[REDACTED]
[REDACTED]
[REDACTED]. In December of 2018, [REDACTED] cleared Respondent for a return to full duty, and he has been successfully performing his patrol duties ever since. Respondent explained that he now feels confident in his ability to do his job, and confident in his co-workers and supervisors as well. [REDACTED]

[REDACTED] (Tr. 42-44, 49-50)

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 7, 2008. He has no disciplinary record.

The Department Advocate asks that Respondent forfeit thirty (30) vacation days and be placed on one-year dismissal probation, while counsel for Respondent suggests that no penalty is

warranted here. After carefully considering the circumstances surrounding Respondent's misconduct, and having had the opportunity to observe Respondent's testimony at this hearing, I find that each of those recommendations is ill-suited to this case, and a more balanced penalty is appropriate.

Respondent was extremely articulate and forthcoming in describing [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]. Shortly after his return to full duty in 2017, Respondent again began to [REDACTED]

Although Respondent now concedes that he was placed on restricted duty by [REDACTED]
[REDACTED] on May 5 he returned home with the erroneous belief that he was being placed on sick report. Respondent came across as sincere as he explained why: he believed he was being placed on sick report since that is how his situation was handled [REDACTED] in 2016. [REDACTED]

[REDACTED]
[REDACTED] Indeed, the fact that Respondent then followed sick protocol by calling the Medical Division the following week to request permission to leave his residence, which was granted, and did so again in June, further supports his claim that he honestly believed he was on sick report. Under these specific circumstances, I credit Respondent's explanation that this was a genuine misunderstanding on his part.

For the next six weeks, the error in Respondent's status remained undetected, an oversight for which there was plenty of blame to go around. To be sure, Respondent could have been more proactive in contacting the Medical Division to seek clarification, which he, himself, acknowledged. Additionally, it is telling that a number of personnel from the 71 Precinct received command disciplines for their failure to notice that Respondent was absent from the command for an extended period of time without being on sick report.

Once the error was detected, Respondent promptly returned to restricted duty. [REDACTED]
[REDACTED] Respondent
returned to patrol in December of 2018. [REDACTED]
[REDACTED]

Taking into account the genuine misunderstanding that led Respondent to believe he was on sick report, [REDACTED]

[REDACTED] this tribunal does not believe that a period of monitoring is warranted, [REDACTED]

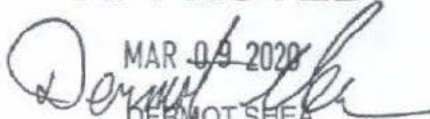
[REDACTED] However, since Respondent was compensated for 31 tours of duty while he incorrectly stayed at home, some corrective is in order. A forfeiture of thirty-one (31) vacation days will provide balanced restoration for what transpired in this case. Accordingly, I recommend that Respondent forfeit thirty-one (31) vacation days.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

MAR 09 2020

DERMOT SHEA
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER IAN GULLO
TAX REGISTRY NO. 945793
DISCIPLINARY CASE NO. 2017-18214

Respondent was appointed to the Department on January 7, 2008. On his last three annual performance evaluations, he received a 3.0 overall rating of "Competent" for 2016 and 4.5 overall ratings of "Extremely Competent/Highly Competent" for 2014 and 2015. [REDACTED]

Respondent has no formal disciplinary history. On January 2, 2019, Respondent was placed on Level 1 Discipline Monitoring in connection with the instant matter; that monitoring remains ongoing.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials